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**FISCAL IMPACT STATEMENT**

**LS 6229**

**BILL NUMBER:** HB 1090

**NOTE PREPARED:** Mar 11, 2012

**BILL AMENDED:** Feb 20, 2012

**SUBJECT:** Payment Plan to Remove Property From Tax Sale.

**FIRST AUTHOR:** Rep. Friend

**FIRST SPONSOR:** Sen. Head

**BILL STATUS:** Enrolled

**FUNDS AFFECTED:**     **GENERAL**  
                              **DEDICATED**  
                              **FEDERAL**

**IMPACT:** Local

**Summary of Legislation:** This bill has the following provisions:

*Waiver of Penalties:* The bill provides that the fiscal body of a county may adopt an ordinance to establish a property tax amnesty program and require waiver of interest and penalties added before January 1, 2012, on delinquent taxes and special assessments on real property in the county if: (1) all of the delinquent taxes and special assessments on the real property were first due and payable before January 1, 2012; and (2) before July 1, 2013, the taxpayer has paid all of these delinquent taxes and special assessments and has also paid all of the taxes and special assessments that are first due and payable after December 31, 2011. It requires the waiver of interest and penalties in these circumstances, notwithstanding any payment arrangement entered into by the county treasurer and the taxpayer.

*Minimum Bid:* The bill provides that the fiscal body of a county may adopt an ordinance authorizing the county treasurer to accept a minimum bid on real property subject to sale for delinquent taxes equal to the lesser of: (1) the delinquent taxes, penalties, and other related costs; or (2) 75% of the gross assessed value of the real property.

*Payment Arrangement for Delinquent Taxes:* The bill applies statewide the authority that currently applies only in Lake County allowing the county auditor to remove real property from a tax sale if the county treasurer and the taxpayer agree to a mutually satisfactory arrangement for the payment of the delinquent taxes. It establishes a period during which a taxpayer who fails to make a payment under the delinquent property tax payment arrangement may not enter into another arrangement.

*Extension of Period of Redemption:* The bill allows the county treasurer to extend the tax sale redemption period applicable to real property if a tract or item of real property did not sell at a tax sale and the county treasurer and the taxpayer agree to an arrangement for payment of the amount required for redemption before the expiration of the extended redemption period. It provides for cancellation of the agreement and the extension if the taxpayer fails to meet the terms of the agreement.

*Clarification:* The bill also clarifies that the total amount required for redemption includes all taxes, special assessments, interest, penalties, and fees on the property including those that accrue after the tax sale.

**Effective Date:** Upon passage; January 1, 2012 (retroactive).

**Explanation of State Expenditures:**

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** If more properties are returned to the tax roll instead of going through a tax sale, the county could save on the contracting fees it pays private sales consultants to conduct the sale.

**Explanation of Local Revenues:** *Summary:* The impact of this provision would depend on local action. If the bill results in the taxpayer reclaiming or redeeming the property from the tax sale list or in the property being sold at a tax sale, the property would be returned to the tax roll. This, in turn, would ultimately lead to an increase in property tax revenues. The total net increase in local revenue is indeterminable at this time and would depend on the number of properties returned to the tax roll and the property tax payments they generate.

*Waiver of Penalties, Minimum Bid:* Under this bill, a county may choose to implement any of the following three options:

Option 1: Under this option, the taxpayer would not have to pay interest and penalties on delinquent property taxes and special assessments first due and payable before 2012. The taxpayer would still be liable for all of these delinquent taxes and special assessments, and also all of the taxes and special assessments that are first due and payable after December 31, 2011. This may allow the taxpayer to either to reclaim the taxpayer's property from the tax sale list or prevent the property from being placed on the list.

Option 2: If the property is already on the list, the county may negotiate a payment plan with the taxpayer in order to remove the property from the list.

Option 3: If the taxpayer is unable to reclaim the property from the tax sale list, the county may reduce the minimum bid for the property, and/or cap the minimum at 75% of the gross assessed value. The minimum bid would be reduced if the county chooses to also implement Option 1.

Depending on the option(s) the county chooses to implement, it may have to forgo some or all of the interest and penalties it otherwise would have collected. If the property in question would have been sold at a tax sale without the waiver or the minimum cap, this would also represent a loss of revenue to the county. On the other hand, failure to implement any of the options may result in the property remaining on the tax sale list thereby denying the county the opportunity to recoup any delinquent taxes.

In general, a waiver interest and penalties by a county would probably permit some taxpayers to reclaim their property from the tax sale list. In some cases, this might also prevent the property from being placed on the list. This would benefit taxpayers who were temporarily unable to pay their property taxes but are now capable of

doing so. It is also possible that even with the waiver the taxpayer would still be unable to meet the tax payments. In this case, the reduced minimum bid together with the cap might make the property more attractive to potential buyers at the tax sale.

*Extension of Period of Redemption:* Under current law, the period of redemption for an item or tract of real property that was not sold at a tax sale is 120 days. This bill allows the county treasurer to extend the redemption period if the taxpayer and the county treasurer can arrange a payment agreement for the total amount payment of all taxes, special assessments, interest, penalties, and fees on the property required for redemption. The extension may be up to one year after the agreement is signed and the total amount owed must be paid within that period. The bill provides for cancellation of the agreement and the extension if the taxpayer fails to meet the terms of the agreement.

*Payment Arrangement for Delinquent Taxes:* The current statute permits property taxpayers in only Lake County to negotiate with the county treasurer on the payment of delinquent taxes. A successful negotiation may result in the removal of the property in question from the tax sale list. This provision extends this authority to the remaining 91 counties. The taxpayer has until July 1<sup>st</sup> of the following year to pay the agreed upon amount of the delinquent taxes. Failure to meet the payments prohibits the taxpayer from requesting another negotiation for five years after the original agreement would have expired.

*Background Information:* As of November 23, 2011, the Lake County Treasurer's Office had a delinquent payment agreement with 594 parcels that otherwise would be eligible for tax sale. Typical delinquent payment agreements range from 6 to 12 payment installments.

A survey of the tax sales in 75 counties indicated that in 2011 a total of 47,700 parcels (valued at approximately \$219 M) were certified to be sold. Approximately 14,900 were reclaimed (for \$37.6 M) prior to the tax sales. A total of approximately 4,400 parcels were sold at the tax sales, and \$13 M in taxes were recovered. About 23,300 parcels (48%) were not sold.

**State Agencies Affected:**

**Local Agencies Affected:** County Auditors; County Treasurers; Fiscal Bodies of Counties.

**Information Sources:** SRI Incorporated, <http://www.sri-taxsale.com/Tax/Indiana/TaxStats.aspx>; Lake County Treasurer, 219-755-3760.

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